

REMARKS

EXAMINER'S REJECTIONS (paragraph numbers added)

- (1) *"Claims 1, 12, and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over and [sic] Kelly (#6,067,190) in view of Jamel (#4,235,541) and Pieri et al. (#6,377,541) [sic] [actually (#6,377,398 B1)]."*
- (2) *"For claim 1, Kelly discloses a binocucorder (figs. 1/5), comprising:*
- (3) *"a camcorder (120/122) including image processing elements and a line-of-sight (col. 7, lines 25-38);*
- (4) *"a binocular (104) including first and second tubular body portions which are spaced apart parallel to each other, each having a forward end incorporating an objective lens, having an effective line-of-sight centered between said objective lenses parallel to said tubular body portions, said camcorder being mounted on said binocular.*
Please read col. 5, line 18-col. 6, line 11; col. 6, line 30-col. 7, line 38.
- (5) *"However, Kelly does not expressly teach periscope means mounted on said camcorder adapted to* [sic] receive incident light on said binocular effective line-of-sight and reflect said light onto said camcorder line-of-sight into said image processing elements of said camcorder.*

- (6) *"In a similar field of endeavor, Jamel discloses [a] periscope means mounted on a camera adapted to* [sic] receive incident light and reflect said light onto said camera line-of-sight into said image processing elements of said camera (col. 1, line 20-col. 62, line 9). In light of the teaching of Jamel, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the binocucorder of Kelly with the binocucorder as recited in claim 1 [in] order to take images of subject in a crowd (Jamel col. 1, lines 1-10).*
- (7) *"However, Jamel does not expressly disclose [a] periscope means adapted to* (sic) receive incident light on said binocular effective line-of-sight.*
- (8) *"In a similar field of endeavor, Pieri discloses [a] periscope means adapted to* [sic] receive incident light on said binocular effective line-of-sight (col. 12, lines 35-49). In light of the teaching of Pieri, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the binocucorder of Kelly, as modified by Jamel, with the binocucorder as recited in claim 1 in order to improve the magnification ratio of the image which can be better observed (col. 12, lines 50-59).*

(9) *"For claim 12, Kelly, as modified by Jamel and Pieri, discloses in combination with claim 1: said camcorder having a housing having a forward portion defining a closed periscope compartment containing said image processing elements and an underside portion dependent from said rearward portion, said binocular tubular body portions being attached to said underside portion of said camcorder housing, said periscope compartment including a window for entry of said incident light into said periscope compartment, said periscope compartment being structured to permit passage of said light to said image processing elements of said camcorder. Please read Jamel, col. 1, line 20-col. 62 line 9; Pieri, col. 8, lines 5-22; and Kelly, col. 6, line 30-col. 7, line 38.*

(10) *"For claim 21, Kelly, as modified by Jamel and Pieri, discloses in combination with claim 12: said image processing elements of said camcorder including an objective lens (not numbered), said window being said objective lens of said camcorder. In Kelly, please see fig. 5 and read col. 6, line 30-col. 7, line 38."*

APPLICANT'S RESPONSE

MPPEP 2143.03 ALL CLAIM LIMITATIONS MUST BE CONSIDERED

"All words in a claim must be considered in judging the patentability of that claim against the prior art."

Claims 1, 12 and 21 recite elements which are essential to achievement of the unitary result that is conceived. Kelly, Jamel and Pieri disclose none of those essential elements. The current amendments to claims 1 and 12 further distinguish those essential elements from the prior art.

Responding to Paragraph (4):

Applicant's specification and drawings establish that applicant's claims are referring to a typical conventional optical binocular, which, as shown in Fig. 1 of applicant's drawings, is well-known to effectively comprise two optical telescopes which are joined together in parallel spaced apart relationship. Each of these telescopes is well-known to comprise a tubular body portion containing only lenses and no electronics, each tubular body portion having a forward end that is closed by an objective lens through which incident light is received, and each tubular body portion having a rearward end which provides an eyepiece through which the received light is passed into a single one of the user's eyes. Accordingly, each of the two telescopes has it's own line-of-sight; a line-of-sight that is centered in the objective lens of each telescope. Since the two telescopes are joined

together in parallel spaced apart relationship, their respective lines-of-sight are likewise in parallel spaced apart relationship. Optically, the two telescopes function independently of each other so that the image seen by a person's left eye and which is received along one line-of-sight is slightly different from the image seen by the person's right eye which is received along the other line-of sight.

Applicant's last response filed 01/25/2008, included an informal drawing entitled "Binocucorder" wherein dashed lines indicate the cone-shaped fields of view that are seen through each of the two tubular bodies 18, 19. Referring to that informal drawing, tubular body portion 18 is seen to receive incident light along a first line-of-sight 56, and tubular body portion 19 is seen to independently receive incident light along a second line-of-sight 57. In such a conventional optical binocular, corresponding rearward portions of the tubular bodies 18,19, are secured together but corresponding forward portions of the tubular bodies are spaced apart. This inherently spaced apart relationship enables location of additional structure between the corresponding forward portions of the binocular's tubular body portions 18, 19, and any such additional structure will not obstruct the respective fields of view because they overlap to form a single image only at some point in the distance. In other words, there is a "blind zone" located immediately in front of the binocular's objective lenses 20, 21 (see the formal drawings for these numbers), which is not within the field of view of either one of the two telescopes. To the user of the binocular, the overlapping circles form a single

wider field of view which the user experiences as a three-dimensional image. An axis passing perpendicularly through and centered between the dashed-line circles is the binocular's "effective" line-of-sight 55 and it is parallel to and is centered between the binocular's actual lines-of-sight 56, 57. All these characteristics of a conventional optical binocular are well known, are described in applicant's specification, are intended to be obvious from applicant's formal drawings, and were intended to be understood by the language of applicant's claim 1 even before the current amendments.

A. Kelly does not show "first and second tubular body portions which are spaced apart parallel to each other". See Kelly's Fig. 1. Kelly shows a single box-like "main housing 102". That single housing 102 contains all the optical and electronic elements which comprise Kelly's binocular.

B. As shown in Kelly's Fig. 1, in Kelly's binocular, incident light is received through a single "positive Fresnel lens 130" that, as shown in Kelly's Figs. 3A (a side view) and 3B (a top view), is overlaid by a "reflective striped prism beam splitting surface 132". Incident light is not received through two separate objective lenses 20, 21, as is shown in applicant's drawings.

C. It is an object of applicant's invention to provide a camcorder mounted on top of a conventional optical binocular that is structured as specifically recited in the claims wherein the camcorder includes a periscope that has a lower end portion that extends downwardly from the line-of-sight of the camcorder and into the space that conventionally exists between the corresponding forward portions of such a conventional binocular's tubular

body portions 18, 19. This specific construction and arrangement of the periscope enables incident light to be received by the camcorder on the binocular's effective line-of-sight; the said lower end portion of the periscope having a window through which incident light is received on the binocular's effective line-of-sight and the periscope having optical means directing said incident light upwardly and into the image processing elements of the camcorder.

None of this is either shown or suggested by Kelly. In fact, Kelly's construction precludes the possibility of any such arrangement because Kelly's construction comprises a single housing 102, Fig. 1, into which incident light is received through a single Fresnel lens 130 and not two separate housings between which a periscope could be located. It therefore cannot be obvious to add either Jamel's periscope or Pieri's periscope to Kelly's binocular for the reason that it is impossible to make such a combination. Again, it is impossible because there is no free space where a periscope could be inserted. Applicant's claim 1 as currently amended specifies in lines 6-7:

"a space exists between said corresponding forward portions of said binocular".

D. The current amendments to applicant's claim 1 recite the binocular more specifically so that is clearer why the attainment of applicant's result conceived requires use of a conventional optical binocular. Claim 1 as currently amended recites in lines 3-7:

"an optical binocular including first and second tubular body portions having corresponding rearward portions which are secured together and having corresponding forward portions which are spaced apart parallel to each other so that a space exists between said corresponding forward portions of said binocular". (emphasis added)

Lines 12-14 then make clear the significance of that space:

"periscope means mounted on said camcorder having a lower end portion that is located in said space between said corresponding forward portions of said binocular".

Applicant's claim 1 as currently amended thereby positively distinguishes from Kelly's construction since:

- (a) Kelly's housing 102 is a single box and not "first and second tubular body portions;**
- (b) Kelly's housing 102 does not have "corresponding forward portions which are spaced apart parallel to each other;**
- (c) no "space exists between said corresponding forward portions of said binocular";**
- (d) Kelly's binocular does not have two separate lines-of-sight but only a single one through the Fresnel lens 130;**
- (e) and therefore there is no "blind zone" into which the lower end of a periscope could be inserted.**

Responding to Paragraph (6):

**MPEP 2143.01 (V) THE PROPOSED MODIFICATION CANNOT RENDER THE
PRIOR ART UNSATISFACTORY FOR ITS INTENDED
PURPOSE**

"If the proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification."

A. Jamel's periscope, Fig. 1, has a construction that is the reverse of the periscope that is recited in applicant's claim 1. In Jamel's arrangement, the lower end portion 8, Fig. 1, of Jamel's periscope is configured for attachment to a camera via a "mount 6", Fig. 4, the said lower end portion 8 containing a "mirror 9" which precludes receipt of incident light through and at the elevation of said lower end portion 8.

Applicant's claim 1, lines 12-14, specifies a periscope:

**"having a lower end portion that is located in said space
between said corresponding forward portions of said binocular";**

and, in lines 14-16, specifies:

**"said lower end portion of said periscope means having a
window through which incident light is received on said binocular
line-of-sight".**

In Jamel's periscope incident light is received at the upper end of his periscope and is directed downwardly into the camera. In applicant's

arrangement, incident light is received at the lower end of applicant's periscope and is directed upwardly into the camcorder.

B. Jamel's concept is that of a periscope in the form of a long tube, long enough to enable the camera's user to look over the heads of a crowd; and the specific length of that tube is not critical and purely a matter of preference; e.g., it might be a foot long or two feet long. Applicant's concept is that of a periscope that is only long enough to extend between the camcorder and a location in the space between the spaced apart forward portions of the binocular's body.

C. In Jamel's periscope it is not critical at what elevation above the camera incident light is received into the upper end of his periscope. In applicant's concept it is critical at what elevation incident light is received into the lower end portion of applicant's periscope: the incident light must be received on the effective line-of-sight of the binocular. Applicant's claim 1 specifies in lines 14-16:

"said lower end portion of said periscope means having a window through which incident light is received on said binocular line-of-sight".

Accordingly, Jamel's periscope teaches away from applicant's periscope, and so all the modifications that would have to be made to adapt Jamel's periscope for use on Kelly's binocular could only be made by one skilled in the art if such hypothetical person had applicant's end result in mind. In point of fact, there is nothing in the disclosures of either Kelly or Jamel that

would suggest applicant's end result, which is:

- (a) the enabling of a camcorder to sight along the effective line-of-sight of a binocular;
- (b) with the camcorder and binocular sighting wholly independently of each other without interference therebetween;
- (c) so that the binocular and camcorder can be set to different fields of view (the camcorder imaging close-up and the binocular in wide-angle);
- (d) so that the binocular functions as the target acquisition and maintenance means for the camcorder;
- (e) so that the camcorder can track a moving target in close-up largest image without losing it.

All these ideas characterize the unitary result that is contemplated by applicant's invention. None of these ideas are evidenced by any prior art; therefore there can be no suggestion or motivation to combine Kelly, Jamel and Pieri.

Responding to Paragraph (8):

Pieri's periscope does not receive incident light on his binocular's line-of-sight. Pieri's periscope is analogous to Jamel's periscope in that in both instances incident light is received along an axis that is located at a substantial elevation above the elevation of the receiving device; which, in Pieri's disclosure is a binocular, and in Jamel's disclosure is a still-photo camera. Looking at Pieri's Fig. 11, Pieri's two "eyepieces 143 and 144" may

be likened to applicant's two tubular body portions 18, 19. Each of Pieri's two eyepieces 143, 144, has its own line-of-sight; each receiving the output of Pieri's "beam splitter prism 139". On Pieri's Fig. 11 there is an axis "Fv" which represents the incident light that is received into Pieri's periscope.

Arrowheads drawn on segments of that dashed line (centerline dot-dashes) show the direction in which light received into the periscope travels. That single "beam Fv" is directed to a "beam splitter prism 139" which divides the "beam Fv" into two parts, one part going to "eyepiece 143" and the other part going to "eyepiece 144". Since the light that enters into the user's eyes originates from a single "beam Fv" that has been split into two parts, three-dimensional imaging is precluded. Accordingly, that is not the kind of optical binocular which applicant's claim 1 recites. Applicant's claim 1 recites an optical binocular which comprises two independently functioning tubular body portions 18, 19, each of which has its own line-of-sight and corresponding independent field of view. In other words, as previously stated, applicant's claim 1 specifies a binocular that comprises two telescopes which are joined together in parallel spaced apart relationship but which otherwise have no effect one upon the other. Indeed, it is conventional practice to provide independent focusing means for each of these two telescopes. This distinction with respect to the nature of the binocular utilized is not a matter of preference--it is essential to attainment of the unitary result that is conceived by the invention and therefore it must be given weight in assessing patentability. In support of this contention, applicant points out that it is the

fact that the binocular utilized sights along two separate lines-of-sight (all the way to the target) which are spaced apart parallel to each other but which overlap at some point in the distance to form a single combined field of view which itself has a line-of-sight (an "effective" line-of-sight) that is centered between the two actual lines-of-sight, that enables location of a periscope on that effective line-of-sight; with the result that the camcorder and the binocular both sight on exactly the same line-of-sight and yet one is able to view the target in wide angle while the other views the target in largest image. No such result is possible to be obtained by Pieri's periscope/binocular combination. Pieri's binocular "module" is not the type of binocular that is specifically identified in applicant's claim 1. The language of applicant's claim 1 specifically excludes the type of binocular that is disclosed by Pieri.

"All words in a claim must be considered in judging the patentability of that claim against the prior art." MPEP 2143.03

Responding to Paragraph (9):

1. Kelly as modified by Jamel and Pieri does not disclose a

"camcorder having a housing having a forward portion defining a closed periscope compartment".

See Kelly's Fig. 5. Kelly's "optional electronic camera module 120" is optionally attachable to a lateral side of Kelly's "main housing 102". Kelly's "camera module 120" is not permanently fixed to a top side of Kelly's main housing 102" but instead is attachable to or removable from the "housing 102"

as the user prefers. That proves that the unitary result conceived and taught by Kelly does not require that there be any physical connection at all between Kelly's "camera module 120" and Kelly's "main housing 102".

Kelly states in column 6, lines 60-61:

"Optional modules 118, 120, and 122 provide common examples of desirable add-on features..."

That proves that the unitary result conceived and taught by Kelly does not require that there be any physical connection at all between Kelly's "camera module 120" (essentially a camcorder) and Kelly's "main housing 102". Look again at Kelly's Fig. 5. Kelly's binocular is the "main housing 102". It is fully usable without ever attaching to the "housing 102" a single one of the "optional modules 118, 120, and 122". The mere fact that Kelly's "electronic camera module 120" (or camcorder) is placeable alongside his "housing 102" is not evidence that Kelly has conceived any cooperative relationship between his "electronic camera module 120" and his "main housing 102". Accordingly, there is no suggestion in Kelly's disclosure that his "main housing 102" supplements or enhances the performance of his "electronic camera module 120". A user is perfectly free to use Kelly's electronic binocular, which comprises solely the "main housing 102", without ever attaching to it the "optional display module 118", or the "optional electronic camera module 120"; and with respect to the "video cassette recorder and battery module 122" Kelly states in column 7, lines 2-8:

"The video cassette recorder and battery module 122 comprises

a compact recorder and player 138 with supporting battery 136 which may be either mounted to a mating interface port, such as located on the bottom surface of the main housing 102 as shown in Fig. 5, or attached to the user's belt and connected to the external input/output interface 110."

Accordingly, Kelly does not teach a unitary structure that comprises both a camcorder and a binocular, permanently fixed together, wherein the binocular supplements and enhances the performance of the camcorder by means of the camcorder including a periscope that receives incident light on the binocular's line-of-sight and directs said light into the image processing elements of the camcorder.

There is nothing in the periscope disclosures of either Jamel or Pieri that suggests their combination with Kelly's binocular to produce the result that is specified in applicant's dependent claim 12 (which includes the language of claim 1).

1. Claim 12 recites a camcorder housing having a specific construction:

"...having a housing [44] having a forward portion defining a closed periscope compartment [49]...a rearward portion [45] containing said image processing elements and an underside portion [46] dependent from said rearward portion [45]". (Numerals added, taken from applicant's drawings.)

No such construction is evidenced by Kelly's "electronic camera module 120".

It comprises only a single housing that contains all of the image processing elements--there is no forward portion defining a periscope compartment, and there is no underside portion to which the tubular body portions (applicant's elements 18, 19) of a conventional optical binocular could be attached.

Jamel cannot suggest forming a periscope compartment as an integral part of a camcorder's housing because Jamel's periscope is detachably mounted on the front of a camera, Jamel providing the lower end portion of his periscope having a "mount 6" (Jamel, Figs. 2 & 4) specifically for that purpose. So Jamel teaches away from a camcorder housing that incorporates a periscope compartment as an integral part of that housing. Pieri's periscope has nothing to do with a camcorder housing.

2. Applicant's claim 12 in lines 5-7 specifies:

"said corresponding rearward portions of said binocular tubular body portions [18, 19] being attached to said underside portion [46] of said camcorder housing [44]".

There is no possible combination of the collective subject matters of Kelly, Jamel and Pieri that would result in (a) Kelly's single binocular "housing 102" becoming a conventionally structured binocular that has two independently sighting tubular body portions [18, 19] and (b) Kelly's "camera module 120" sprouting an underside portion [46] onto which those two binocular body portions [18, 19] could be attached.

Responding to Paragraph (10):

Applicant's dependent claim 21 includes all the limitations of claims 1 and 12 and further recites:

"said image processing elements of said camcorder including an objective lens, said window being said objective lens of said camcorder."

There is nothing in the collective disclosures of Kelly, Jamel and Pieri that suggests (a) a camcorder having a periscope comprising a frontal portion of the camcorder's housing, and (b) the window through which incident light is received into the periscope being the objective lens of that camcorder.

1. Kelly's "camera module 120" (Fig. 5), does not have a periscope forming a part of it.

2. A periscope cannot be attached to Kelly's "camera module 120" and extended to the line-of-sight of Kelly's binocular (Kelly's "main housing 102") because a periscope so placed would block entry of incident light into Kelly's binocular.

3. Kelly's binocular configuration eliminates the "blind zone" that inherently exists immediately in front of a conventional binocular into which one end of a periscope can be placed without compromising the conventional binocular's effective line-of-sight.

4. Kelly's binocular receives incident light through what Kelly calls "a single entry pupil", meaning that incident light is received through a single

large window that, as shown in Kelly's Figs. 3A & 3B, comprises a "Fresnel lens 130" combined with a "beam splitting surface 132". Anything placed in front of that window would obstruct entry of light into Kelly's binocular. It therefore is not possible for Jamel & Pieri to suggest modification of Kelly's binocular to include a periscope extending between Kelly's "camera module 120" and Kelly's binocular because such a modification would render Kelly's binocular unsatisfactory for its intended purpose.

"If the proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification." MPEP 2143.01 (V)

5. Points 1-4 above show that it is not possible for Kelly, Jamel and Pieri to collectively suggest mounting a periscope equipped camcorder on top of a conventional optical binocular in any manner whatsoever, and certainly not such that a lower end portion of the periscope extends downwardly into the space that conventionally exists between the parallel spaced apart corresponding forward portions of the binocular's tubular body portions, with such lower end portion of the periscope having a window through which incident light is received precisely on the effective line-of-sight of the binocular, the periscope being otherwise configured to redirect said incident light into the image process elements of the camcorder.

6. Accordingly, applicant's combination, even as recited most broadly in claim 1, already excludes Kelly, Jamel and Pieri because the combination

that is recited in claim 1 would render Kelly's binocular dysfunctional.

7. Claim 12 is even further removed from Kelly, Jamel and Pieri because claim 12 narrows the combination to one in which the camcorder has a housing 44 in which a forward portion 49 of the housing 44 forms a periscope compartment, a rearward portion 45 of the housing 44 contains the image processing elements of the camcorder, and the housing has an underside portion 46 that is dependent from the rearward portion 45 of the housing 44 and onto which underside portion 46 the first and second tubular body portions 18, 19, of the binocular are attached.

There is no such construction shown by Kelly, and there is nothing in the disclosures of Jamel and Pieri that could suggest such a construction.

Claim 21 is still further removed from anything shown or suggested by Kelly, Jamel and Pieri, because claim 21 restricts the combination recited in claim 12 to one wherein the objective lens 48 (applicant's Fig. 2) of the camcorder (which objective lens 48 is conventionally located in the forward wall 47 of the camcorder's image processing section) is now located in the periscope whereby the objective lens 48 not only contributes its part to the processing of the incident light but also simultaneously serves as the periscope's window through which incident light is received into the periscope. The conventional arrangement is as shown in applicant's Fig. 1 wherein the objective lens 48 is shown mounted in the forward wall 47 of the image processing section 45 of the camcorder. The alternative location of the objective lens 48 that is shown in Fig. 2 eliminates one optical element;

specifically, the plain glass window 51 that is shown in Fig. 1. By eliminating the window 51, there is less glass for the incident light 55 to have to pass through, thereby reducing light loss and resulting in a brighter image critical for night use.

Examiner has called applicant's attention to Kelly's Fig. 5 and specification columns 6, line 30 to column 7, line 38. Applicant finds nothing therein that either anticipates or suggests using a camcorder's objective lens as the window of a periscope through which incident light enters the periscope. There is nothing in Kelly's Fig. 5 that suggests that Kelly's camcorder 120 does not have its objective lens attached to it, and of course, since there is no periscope, that objective lens could not be anywhere except mounted in the camcorder housing 120.

Pieri's periscope has an "objective lens 101", Fig. 11, but it does not serve as the window of his periscope since incident light first passes through his "dichroic mirror 21" and is then reflected off "reflecting mirror 23" before it finally reaches the "objective lens 101". And in Pieri's periscope the light is not delivered to a camcorder but is split by his "beam separator prism 139", the two beams produced being delivered to two eyepieces 143 and 144. Pieri therefore neither discloses nor suggests using a camcorder's objective lens as the window of a periscope through which window incident light is received into the periscope.

Jamel, Fig. 1, shows his periscope receiving incident light through a window that is a "filter 2" and not an objective lens. Jamel's "camera 10"

retains its objective lens (not shown); Jamel's periscope simply being detachably mounted on the camera's objective lens which forms no part of Jamel's periscope. Jamel's periscope includes a "lens 5" that is mounted intermediate the length of his periscope that is used to focus the image after it has passed through the "filter 2" and has been reflected off a mirror (not shown) that is located "in the back of finder 1". Jamel describes this in column 1, line 35 to column 2, line 2: "If the eye of the photographer receives an image not in focus through camera 10, he would then take steps to adjust the focus with lens 5." Accordingly, Jamel neither discloses nor suggests using a camcorder's own objective lens as the window of a periscope, the periscope then simply reflecting the partially processed image directly into the remaining image processing elements of the camcorder; whereby the number of optical elements through which the received light must be passed is held to an absolute minimum.

Closing Arguments

AMPEP 2141.02 (I) THE CLAIMED INVENTION AS A WHOLE MUST BE CONSIDERED "In determining the differences between the prior art and the claims, the question under 35 U.S.C. 103 is not whether the differences themselves would have been obvious, but whether the claimed invention as a whole would have been obvious."

The new and useful result that is contemplated and which is attained by

applicant's invention is stated in Paragraph 0005 of his specification:

"The invention enhances the ease with which a subject can be acquired, whether by day or by night, and kept centered for recording by a camcorder by mounting the camcorder on a binocular that is either fixed in wide angle field of view, or, is a zoom type binocular that is adjustable to a wide angle field of view, the binocular and the camcorder being cooperatively related such that both are always sighted on the same target, whereby the binocular may thereby normally be used as the target acquisition and centering means for the camcorder. The camcorder may thereby normally be operated in some degree of telephoto mode with certainty that the target is being recorded so long as the user maintains the target centered in the field of view of the binocular. Since the target will always be easier to see using the binocular, the user will always be assured that the target is in fact centered in the line-of-sight of the camcorder and its image is being recorded even if the target is not immediately visible in the viewfinder or monitor. This cooperative relationship greatly enhances the effectiveness of the camcorder."

No prior art cited to date or otherwise known to applicant contemplates attainment of such a result. None shows structure capable of achieving that result. On the contrary, all prior art cited to date comprises structure which inherently precludes attainment of the result that is described in Paragraph 0005 of applicant's specification. It follows that the result conceived which applicant's invention achieves is clearly unique and original.

Applicant's mode of attainment requires use of a conventional optical binocular which comprises two tubular (telescope) bodies which are secured together in parallel spaced apart relationship, and draws upon a peculiarity of that construction, namely, that there is a space between the two telescopes into which space additional structure can be located without such structure being seen through either one of the two telescopes. Each telescope has its own line-of-sight, but the two fields of view come together and overlap at some point in the distance to form a single image having a wider field of view; thereby providing the binocular with an "effective" line-of-sight that is centered in that relatively wider field of view and is located between the actual lines-of-sight of the two telescopes. Such a binocular is well known and no claim is made to any part of it, applicant's invention simply makes use of its peculiarities as a feature of the invention's mode of attainment. Since the specific characteristics of such a conventional optical binocular are an essential part of the claimed invention's mode of attainment, it is not correct to treat that subject matter as unimportant. Kelly's binocular is not the kind of binocular that is recited in applicant's claim 1. Since Kelly's binocular does not comprise two telescopes which are joined together in parallel spaced apart relationship so that a space exists between corresponding forward portions of the two tubular bodies which comprise the telescopes, no matter how Kelly's binocular is modified by other prior art, it will never be possible to attain applicant's result.

Applicant's mode of attainment, inclusive of the conventional optical

binocular described above plus a camcorder mounted on top of such a binocular, is stated in Paragraph 0010 of applicant's specification:

"The invention provides a periscope which receives incident light on the binocular's effective line-of-sight and reflects it upwardly onto the camcorder's line-of-sight. Accordingly, it is an object of the invention to provide a camcorder having a housing a rearward portion of which houses the elements of the camcorder, including the LCD monitor, and a forward portion of which comprises a periscope that has its light-receiving end located centered between the objective lenses of the binocular, the periscope being proportioned narrow enough in width to fit therebetween. At any distance of the subject from the user, so long as the subject is centered in the field of view of the binocular it will necessarily be centered in the field of view of the camcorder."

Applicant's claim 1 recites such a combination. No prior art shows such a combination. Jamel and Pieri cannot suggest modification of Kelly's binocular to achieve applicant's result because Kelly's binocular does not have an "effective" line-of-sight that is located between two parallel spaced apart telescopes whereby a space exists between the two telescopes into which space a periscope can be located and provided with a window through which incident light is received into the periscope on that "effective" line-of-sight. Kelly's binocular has only a single actual line-of-sight which Kelly's binocular needs to have unobstructed in order that incident light can be received through the single large window that comprises the entirety of the

front end of the "housing 102" and which comprises a "Fresnel lens 130" in combination with a "beam splitting surface 132".

Claim 12, which is dependent from claim 1, further distinguishes from the prior art by restriction to a construction wherein the camcorder incorporates the periscope as an integral part of the camcorder's housing and wherein the two telescopes which comprise the binocular per se are attached to an underside portion of the camcorder's housing. No prior art discloses or suggests such a construction.

Claim 21 distinguishes still further by removal of the camcorder's objective lens from its conventional position in close association with the other image processing elements of the camcorder and transferring it to the input end of the periscope where the objective lens does double-duty as the window through which incident light is received into the periscope, thereby providing the additional benefit of minimizing light loss by eliminating the plain glass that would otherwise have to be used as a window in order to close the periscope to prevent dust from entering into it. No prior art discloses or suggests such a periscope.

Applicant respectfully requests reconsideration and allowance of claims 1, 12 and 21 in light of the arguments contained herein.

* * *